

Message Text

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PAGE 01 ATHENS 05621 251943Z

20

ACTION EB-07

INFO OCT-01 EUR-12 ISO-00 CAB-02 CIAE-00 COME-00 DODE-00

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FM AMEMBASSY ATHENS

TO SECSTATE WASHDC 9763

SECDEF WASHDC

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EO 11652: NA

TAGS: MASS EAIR EINV EIND BEXP GR US

SUBJECT: NATIONAL AVIATION EQUIPMENT INDUSTRY (EBAY)

1. EMBASSY HAS RECEIVED INQUIRY FROM HELLENIC AIR FORCE COMMAND REQUESTING CLARIFICATION OF DRAFT ARTICLE OF AGREEMENT BETWEEN THE GOG AND US CONTRACTORS INVOLVED IN SUBJECT PROJECT. NEITHER EMBASSY NOR JUSMAAG KNOWS SOURCE OF LANGUAGE IN DRAFT ARTICLE AND UNABLE ANSWER HAFI REQUEST. HAFI INQUIRY AND DRAFT ARTICLE (REFERRED TO IN INQUIRY AS ENCLOSURE) FOLLOW BELOW. ACTION REQUESTED - EMBASSY REQUESTS GUIDANCE FOR REPLY HAFI INQUIRY. IF LANGUAGE IN DRAFT ARTICLE HAS BEEN SUPPLIED BY USG, WOULD APPRECIATE APPROPRIATE LANGUAGE FOR EMBASSY RESPONSE.

2. BEGIN TEXT

TO: US EMBASSY ECONOMIC SECTION, ATHENS GREECE

FROM: HELLENIC AIR FORCE COMMAND

ATHENS 17 JULY 1975

SUBJECT: NATIONAL AIRCRAFT MAINTENANCE FACILITY (HAI)

1. WE HAVE THE HONOUR TO INFORM YOU ON THE SUBJECT-MATTER THAT WE ARE

IN THE PROCESS OF FINALIZING THE CONTRACT AGREEMENTS WITH THE US

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PAGE 02 ATHENS 05621 251943Z

COMPANIES WHICH ARE TO PARTICIPATE IN THE ESTABLISHMENT OF SUBJECT

FACILITY.

2. AS WE WERE ADVISED DURING THE NEGOTIATIONS BY THE REPRESENTATIVES OF THE SAID COMPANIES, IT IS NECESSARY THAT CERTAIN CLAUSES HAVE TO BE

INCLUDED IN THE CONTRACTS IN ORDER THAT THEY RECEIVE THE APPROVAL OF THE

US GOVT. MORE PARTICULARLY, A WHOLE ARTICLE OF SUCH CLAUSES HAS BEEN PROPOSED TO US TO BE INCLUDED AS MANDATORY. THEIS ARTICLE, A COPY OF WHICH IS ATTACHED, CONTAINS TERMS AND PROVISIONS WHICH ARE NOT

CLEARLY UNDERSTOOD BY HAF. A SIMILAR ARTICLE WILL BE INCLUDED IN THE CONTRACT BETWEEN LOCKHEED AIRCRAFT CORP, GENERAL ELECTRIC AND GOG.

3. PLEASE TAKE INTO CONSIDERATION THAT THE CONTRACTS BETWEEN GOG AND LOCKHEED, GE, OR WESTINGHOUSE COVER THE PROVISION OF US ARTICLES (MACHINERY, EQUIPMENT DATA ETC) AND US SERVICES.

4. MORE SPECIFICALLY:

A. IN ACCORDANCE WITH THE PARA A2 OF THE ARTICLE XV (ATTACHED), THE CONTINUATION OF THE PERFORMANCE OF THE ABOVE COMPANIES IS BASED ON;

ALL LAWS AND REGULATIONS AND OTHER ADMINISTRATIVE ACTS, NOW OR HEREAFTER IN EFFECT, WHICH ARE NOT UNDER THE CONTROL OF THE CONTRACTING PARTIES. THIS MEANS THAT IF THE ABOVE TERMS AND PARTICULARLY "ANY REGULATIONS OR ADMINISTRATIVE ACTS," WILL EVER BE APPLIED, THE COMPLETION OF OUR PROJECT MIGHT AT ANY TIME BE POSTPONED OR JEOPARDIZED.

B. PARA A1 OF SAME ARTICLE REQUIRES THE PRIOR APPROVAL OF THE US GOVT BEFORE THE CONTRACTS BECOME EFFECTIVE.

5. IN VIEW OF THE ABOVE, IT IS REQUESTED THAT WE BE INFORMED ON THE FOLLOWING:

A. ARE THE PROVISIONS OF THE ATTACHED ARTICLE NECESSARY, IN ORDER TO HAVE THE US GOVT APPROVAL NOT ONLY TO START THIS PROGRAM BUT TO HAVE IT ALSO SUCCESSFULLY COMPLETED?
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PAGE 03 ATHENS 05621 251943Z

B. WHAT IS THE EXACT MEANING OF THE WORDS "REGULATIONS, AND OTHER ADMINISTRATIVE ACTS," WHICH ARE INCLUDED IN PARA A2, AND WHAT IS THE GOVERNMENTAL AUTHORITY OR LEVEL WHICH ISSUES THEM? FURTHER, ARE THE REQUIREMENTS OF THE US GOVT SATISFIED (NOT ONLY TO START THIS PROGRAM BUT TO HAVE IT ALSO SUCCESSFULLY COMPLETED),
IF THE ABOVE WORDS ARE DELETED FROM THE TEXT OF PARA A2?

C. WILL THEUS GOVT OBJECT OR DENY THE APPROVAL OF SAID CONTRACTS?

6. FOR YOUR INFO WE UNDERSTAND THAT THE HAI PROGRAM HAS BEEN ASSIGNED THE FOLLOWING US MUNITIONS CONTROL BOARD CASE NUMBERS: NO 77861, GC459, GC457. YOUR ATTENTION IS ALSO INVITED TO US EMBASSY OF ATHENS NOTE NUMBER 318, DATED SEP 10, 1974 RELATING TO THIS SUBJECT.

7. YOUR EARLY REPLY WILL BE GREATLY APPRECIATED.
PERICLIS ECONOMOU
LIEUTENANT GENERAL, CHIEF HAF
ARTICLE XV
US GOVERNMENT REGULATIONS

A. 1. THIS AGREEMENT SHALL NOT BECOME EFFECTIVE WITHOUT THE PRIOR APPROVAL OF THE DEPT OF STATE OF THE US GOVT.

2. THIS AGREEMENT IS SUBJECT TO ALL LAWS AND REGULATIONS, AND OTHER ADMINISTRATIVE ACTS, NOW OR HEREAFTER IN EFFECT, OF THE US GOVT AND ITS DEPARTMENTS AND AGENCIES.

3. THE PARTIES TO THIS AGREEMENT DECLARE THAT THE OBLIGATIONS CONTAINED IN THIS AGREEMENT SHALL NOT AFFECT THE PERFORMANCE OF ANY OBLIGATIONS CREATED BY PRIOR CONTRACTS OR SUBCONTRACTS WHICH THE PARTIES MAY HAVE INDIVIDUALLY OR COLLECTIVELY WITH THE US GOVT AND ITS DEPARTMENTS AND AGENCIES.

4. ANY USE OF TOOLING AND FACILITIES WHICH THE USGOVT OWNS OR TO WHICH IT HAS THE RIGHT TO ACQUIRE TITLE MUST BE AUTHORIZED BY THE US GOVERNMENT CONTRACTING OFFICER.

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PAGE 04 ATHENS 05621 251943Z

5. NO LIABILITY SHALL BE INCURRED BY OR ATTRIBUTED TO THEUS GOVT IN CONNECTION WITH ANY POSSIBLE INFRINGEMENTS OF PRIVATELY OWNED PATENT OR PROPRIETARY RIGHTS EITHER DOMESTIC OR FOREIGN, BY REASON OF THE US GOVT'S APPROVAL OF THIS AGREEMENT.

B. THE TECHNICAL DATA PERTAINING TO THE ARTICLES TO BE PRODUCED ARE NOT AUTHORIZED TO BE DIRECTLY OR INDIRECTLY SOLD, LEASED, RELEASED, ASSIGNED, TRANSFERRED, CONVEYED, OR IN ANY MANNER DISPOSED OF IN OR TO ALBANIA, BULGARIA, COMMUNIST CHINA, CUBA, CZECHOSLOVAKIA, E GERMANY, ESTONIA, HUNGARY LATVIA, LITHUANIA, N KOREA, OUTER MONGOLIA, POLAND, ROMANIA, USSR, ANY OF THE AREA OF VIETNAM WHICH IS UNDER DE FACTO COMMUNIST CONTROL, AND ANY OTHER AREA WICH IS DETERMINED BY THE DEPT OF STATE TO BE UNDER COMMUNIST CONTROL.

C. 1. IT IS AGREED THAT SALES UNDER CONTRACTS MADE WITH FUNDS DERIVED THRU THE MILITARY ASSISTANCE PROGRAM OR OTHERWISE THRU THE US GOVT WILL NOT INCLUDE EITHER (I) CHARGES FOR PATENT RIGHTS IN WHICH THE US GOVT HOLDS A ROYALTY FREE LICENSE OR (II) CHARGES FOR DATA WHICH THE US GOVT HAS A RIGHT TO USE AND DISCLOSE TO OTHERS, WHICH ARE IN THE PUBLIC DOMAIN, OR WHICH THE US GOVT HAS ACQUIRED OR IS ENTITLED TO ACQUIRE WITHOUT RESTRICTIONS UPON THEIR USE AND DISCLOSURE TO OTHERS.

2. IF THE US GOVT IS OBLIGATED OR BECOMES OBLIGATED TO PAY LICENSOR ROYALTIES, FEES, OR OTHER CHARGES FOR THE USE OF TECHNICAL DATA OR PATENTS WHICH ARE INVOLVED IN THE MANUFACTURE, USE OR SALE OF ANY LICENSED ITEM, ANY ROYALTIES, FEES, OR OTHER CHARGES IN CONNECTION WITH PURCHASES OF SUCH LICENSED ITEM FROM LICENSEE OR ITS SUB-LICENSEE WITH FUNDS DERIVED THRU THE MILITARY ASSISTANCE PROGRAM OR OTHERWISE THRU THE US GOVT SHALL NOT EXCEED THE TOTAL AMOUNT THE US GOVT WOULD HAVE BEEN OBLIGATED TO PAY THE LICENSOR.

3. IF THE US GOVT HAS MADE FINANCIAL OR OTHER CONTRIBUTIONS TO THE DESIGN AND DEVELOPMENT OF ANY LICENSED ITEM, ANY CHARGES FOR TECHNICAL ASSISTANCE OR KNOWHOW RELATING TO THE ITEM IN CONNECTION WITH PURCHASES OF SUCH LIMITED OFFICIAL USE

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PAGE 05 ATHENS 05621 251943Z

ITEMS WITH FUNDS DERIVED THRU THE US GOVT SHALL BE PROPORTIONATELY REDUCED TO REFLECT THE US GOVT CONTRIBUTIONS AND, SUBJECT TO THE PROVISIONS OF PARA 2. ABOVE, NO OTHER ROYALTIES, FEES, OR OTHER CHARGES WILL BE ASSESSED AGAINST US GOVT FUNDED PURCHASES OF SUCH ITEM. HOWEVER, CHARGES MAY BE MADE FOR REASONABLE REPRODUCTION, HANDLING, MAILING, OR SIMILAR ADMINISTRATIVE COSTS INCIDENT TO THE FURNISHING OF SUCH DATA.

D. IT WILL BE THE RESPONSIBILITY OF WESTINGHOUSE TO REQUEST ANY APPROVAL REQUIRED BY THIS ARTICLE AT NO ADDITIONAL COST TO HAI.
END TEXT.
KUBISCH

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Message Attributes

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